

MEMO TO CLIENTS  
from Christopher W. Dumm

July 10, 2014

RE: IRA Beneficiaries

Dear Client:

Over the last few years there have been a number of changes about how the IRS treats inherited IRAs and the necessary provisions if you name a trust as the IRA beneficiary. On June 12<sup>th</sup> of this year the United States Supreme Court unanimously ruled in the *Clark* case that inherited IRAs are not afforded the same protections from creditors as regular IRAs. We are asking all of our clients to review the beneficiary designation for their IRAs based on the information contained in this letter.

If you are married, the primary beneficiary is most likely (i) your spouse or (ii) your living trust. You may choose your spouse for the chief advantage of allowing the spouse to roll-over your IRA into his or her own IRA to “stretch out” the distributions from the IRA, have some creditor protection and get maximum income tax deferral. You may choose to name your trust, if you have a large IRA and have asset protection concerns such as potential nursing home costs, possible remarriage of the spouse, creditors and judgments.

If your spouse does not survive you, or if you have no spouse, the question of who to name as beneficiary is a bit more complicated. The answer depends upon the size of the IRA and, if there are multiple beneficiaries, the difference in age. If the size of each beneficiary’s IRA share is too small to make sense of stretching out distributions over their life expectancy, then you may wish to name them directly as beneficiaries unless asset protection is a concern, in which case you would name your trust.

If you want to have the beneficiaries stretch out distributions over their life expectancies, and if you name the trust as a whole as the beneficiary, the oldest beneficiary’s life expectancy is used for all of the shares when determining annual distributions. Therefore, our office policy is to name the individual inherited trust shares as the beneficiaries of the IRA. This gives each beneficiary the tax stretch out over their life expectancy while their inheritance is still protected from creditors, judgments, and possible divorces. For this to work your trust must have “conduit” provisions, which we have been automatically inserting in our recent trusts.

Finally, another option, when you want different provisions for the distribution of the IRA than you want for the rest of your assets, is to use stand-alone IRA beneficiary trusts. This option is probably only viable if the IRA is worth enough to justify the administrative expenses of having separate trusts for the beneficiary IRAs, but it does provide excellent asset protection.

If you have any questions about your IRA beneficiaries or wish to make any changes to your estate plan, please do not hesitate to contact our office.

Sincerely,



Christopher W. Dumm